



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/992,504	12/17/1997	EDWARD W. HOLLAND		3900

7590 03/30/2004

RICHARD T. LYON
LYON HARR & DEFRANK
300 ESPLANADE DRIVE
SUITE 800
OXNARD, CA 93030

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

08/992,504

Applicant(s)

HOLLAND ET AL.

Examiner

Alfred J Wujciak III

Art Unit

3632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 15 July 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192 (c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENTIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c) (7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See attached.



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER

ASU

The office action of Paper No. 31, mailed November 19, 2003 titled Notification of Non-Compliance With 37 CFR 1.192(c) has been vacated in view of it mistakenly having address the brief filed March 3, 2003, Paper No. 27, instead of the brief filed July 15, 2003, Paper No. 30. Any inconvenience is regretted.

The following action is hereby taken:

The Appeal Brief filed July 15, 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH** or **THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

Appellant has list five (5) separate grouping of claims as follows:

- Group I, Claims 75, 77-81 and 89-91
- Group II, Claim 76
- Group III, Claims 82-85
- Group IV, Claims 86-88
- Group V, Claims 92-94

It is noted that claims 78-80, 83-85 and 94 have not been rejected on any statutory basis and are thus not part of the appeal. These claims should not be listed in any one of the groups nor should they be listed in the brief's index of claims on appeal. A new index of claims on appeal is required listing only those claims on appeal. As noted in the Office Action of Paper No. 25, mailed November 19, 2002, these claims were "objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claim."

When grouping the claims in the brief to stand or fall together, each claim is to be listed in only one group. Each group should be argued as to how it is patentably distinct from each of the other groups. Further, since all claims within a group stand or fall together, appellant need only argue the broadest claim within the group.

To argue the patentability of each claim within its own group over the other claims with the same group is not within the spirit of all the claims within the same group standing or falling together.